

DRAFT 10-29-13.4

WYOMING GAME AND FISH COMMISSION

CHAPTER 33

REGULATION GOVERNING ISSUANCE OF SCIENTIFIC RESEARCH, EDUCATIONAL OR SPECIAL PURPOSE PERMITS

Section 1. Authority. These rules are promulgated by authority of W.S. 23-1-302(a)(vii), (x), (xiii), (xxii) and (xxvi).

~~**Section 2. Purpose.** The purpose of this regulation is to govern and regulate the issuance of permits to take, capture, handle, and transport Wyoming wildlife for scientific research, educational or special purposes. Such permits may be issued to persons, educational institutions, or governmental entities when the Wyoming Game and Fish Department determines the scientific research, educational, or special purposes are beneficial to wildlife, the department or the public.~~

~~**Section 3. Regulation.** The Wyoming Game and Fish Commission hereby adopts the following regulation concerning the issuance of scientific research, educational or special purpose permits. The Commission authorizes the Department to develop and maintain policies and procedures necessary to carry out the provisions of this Chapter. This regulation shall remain in effect until modified or rescinded by the Commission.~~

Section 42. Definitions. ~~For the purpose of this regulation, definitions~~**Definitions** shall be as set forth in Title 23, Wyoming Statutes, **Commission regulations**, and the Commission also adopts the following definitions:

(a) “Educational” means the act or process of imparting knowledge or skill when that is the primary purpose of obtaining a permit.

(b) “Educational institutions” means any accredited college, university, or recognized educational institution.

(c) “Governmental entities” means any state or federal wildlife, natural resource or agricultural agency.

(d) “Scientific research” means the systematic investigative or experimental activities which are carried out for the purpose of acquiring new and relevant knowledge pertaining to wildlife biology, ecology or management, or the revision of accepted conclusions, theories, or laws in the light of newly discovered facts, and which are conducted in a humane fashion by qualified personnel.

(e) “Special purpose” means activities in which a permit is required in order to take or relocate wildlife, but is not considered scientific research or educational.

(f) “Wildlife” means every wild mammal, bird, fish, amphibian, reptile, mollusk, crustacean, their viable gametes (eggs and sperm), fertilized eggs, or any hybrid (including hybrids between wildlife and wildlife and hybrids between wildlife and domestic or domesticated animals) or any transgenic product thereof.

Section 53. Scientific Research, Educational, or Special Purpose Permits. Scientific research, educational, or special purpose permits may be issued by the Director of the Wyoming Game and Fish

Department or his designee to duly authorized agents of educational institutions, governmental entities, and other persons of science or education for scientific research or educational purposes, or special purpose activities to take wildlife under the following conditions:

(a) To receive consideration, the applicant shall submit an application for a permit on a form provided by the Department. Incomplete applications or applications containing false statements or misrepresentations shall be denied. The application shall be submitted to the Wyoming Game and Fish Department at the address specified on the application form and shall state the name of the educational institution, governmental entity or scientific research entity for which the applicant is an agent and the title or position said applicant holds, which would qualify the applicant for a permit. The application shall designate the name of the individual responsible as the permittee and any other person(s) authorized for the activities conducted under the permit. The permittee shall be responsible for ensuring all authorized individuals conduct activities as described in the permit. The application shall include in detail:

- (i) A list of the species to be taken;
- (ii) The numbers to be collected or possessed;
- (iii) The specific Game and Fish Department administrative region(s) where species are to be possessed or collections are to be made;
- (iv) Specific locations by legal description or UTM coordinates and approximate collection dates and methods of collection to be used;
- (v) The purpose for which such possession or collections will be made;
- (vi) The expected benefits to science, research, education or Department management goals;
- (vii) A complete description of wildlife holding facilities to be used (if any);
- (viii) The method of euthanasia to be used (if any); and,
- (ix) A detailed study plan which contains:
 - (A) A statement of the need for the study, expected management application and benefit to the State of Wyoming or the general knowledge of wildlife;
 - (B) A description of study area(s), data collection and analytical methodologies which demonstrate ability to meet study objectives;
 - (C) A description of financial and other resources which demonstrate ability to meet study objectives; and,
 - (D) A description of the final disposition of any wildlife or wildlife parts taken into possession while conducting activities described in the permit.

(b) The Department may require the applicant to provide certification demonstrating the applicant is proficient in the methods or techniques to be utilized while conducting activities authorized by the permit as a condition of the permit. Copies of any required federal permit(s) for the take or possession of wildlife, if applicable, shall accompany the permit application.

(c) The application for a permit must be received by the Wyoming Game and Fish Department at least twenty (20) working days prior to the issuance of the permit in order to allow time for the Department to review and provide consideration to the application.

(d) Permits shall only be issued if the Department determines there is a need for the information collected from the proposed scientific research, there is a valid educational purpose, the issuance of the permit is not detrimental to the wildlife resource or it has been determined a special purpose permit is required.

(e) The permit shall bear the name(s) of the individual(s) authorized to take wildlife or make collections, and will offer no protection to anyone other than those named or designated on the permit to carry out any activity authorized by the permit. Permits issued under this regulation are not transferable.

(f) The Department may require permit holders to notify Department personnel as indicated on the permit prior to taking any wildlife. Notification shall include the dates and specific area of activities prior to making any collection, possessing any wildlife or conducting any activity which results in the take of wildlife.

(g) As a condition of the permit, the Department may limit the length of time, location, holding facilities or any other stipulations by which wildlife may be captured, relocated, possessed or euthanized. The Department may specify appropriate best management practices for housing, care and handling of captive held wildlife to include acceptable methods of euthanasia. Any person desiring to import live wildlife shall comply with Commission Regulation, Chapter 10, Regulation for Importation, Possession, Confinement, Transportation, Sale and Disposition of Live Wildlife.

(h) The person designated as the permittee on the permit, regardless of any other names listed on the permit, shall submit a written annual report to the ~~Wyoming Game and Fish Department~~ as specified in the permit. This report may be required to be submitted electronically as per permit stipulation.

(i) For scientific research permits, the annual report shall contain a record of the number of each species of wildlife taken, the locality where taken by UTM coordinates or to the nearest township, range, section and ¼ section, a description of the habitat where taken, individual animal geographic location data points and any other information as required by the Department. The annual report shall also contain the disposition of the animal(s) to include such information as to whether the animal was euthanized, marked or released. The age and sex of wildlife taken shall be provided to the Department when practical.

(ii) For a special purpose permit, the annual report shall describe what activity was accomplished under the permit. The Department shall require that all data and records be submitted in an approved format. The annual report shall also include any final reports or papers written as a result of collections made under the permit.

(iii) For an educational permit, the annual report shall provide a detailed explanation of the presentation(s), a list of dates and locations the presentation(s) were conducted and the total number of audience in attendance.

(iv) The Department may require any additional information in the annual report it deems necessary to evaluate the value to wildlife management of having issued the permit.

(v) The annual report shall be due on or before January 31 following the year for which the permit was valid.

(i) If the individual(s) designated as the permittee fails to submit the required written annual report, data or records in an approved format, no future permit shall be issued to that institution, entity, or individual until the permit report requirement is met.

Section 4. Permit Application Denial Review Process. The following permit denial review process shall be used when considering a Chapter 33 Scientific Research, Educational or Special Purpose Permit application that has been denied:

(a) When an application for a Chapter 33 Scientific Research, Educational or Special Purpose Permit has been denied, the Department Permitting Officer shall send a certified, registered letter with return receipt to the applicant indicating the Department's decision to deny the permit application and the reason(s) for the denial.

(b) The applicant may appeal the decision of the Department to deny a permit application by submitting a written request to the Department Permit Review Board (Board) for consideration. If an applicant fails to request an appeal within thirty (30) consecutive days from the date they received the Department's denial letter, the applicant shall waive their ability to make any future appeal request regarding the denied permit application.

(i) The Board shall consist of the Chief of the Wildlife Division (or his designee), Chief of the Fish Division (or his designee), Supervisor of Biological Services, an appointed regional wildlife or fisheries supervisor (not affiliated with the original permit application) and an appointed senior game warden with commercial operations responsibility or regional fisheries biologist (not affiliated with the original permit application).

(ii) The Board shall review the Department's decision to deny the permit application and may consider any additional information provided by the applicant.

(iii) The Board shall either uphold the Department's decision to deny the permit application or approve the permit application. The Board's decision shall be sent to the applicant as a certified, registered letter with return receipt within fifteen (15) consecutive days of the Board receiving the applicant's written request for appeal.

(c) The applicant may appeal the decision of the Board to deny a permit application by submitting a written request to the Director of the Wyoming Game and Fish Department for consideration. If an applicant fails to request an appeal within thirty (30) consecutive days from the date they received the Board's denial letter, the applicant shall waive their ability to make any future appeal request regarding the denied permit application.

(i) The Director, or his designee, shall conduct a review of the Department's and the Board's decisions, and may consider any additional information provided by the applicant.

(ii) The Director shall either uphold the earlier denials of the permit application or approve the permit application. The Director's decision shall be sent to the applicant as a certified, registered letter with return receipt within fifteen (15) consecutive days of the Director receiving the applicant's written request for appeal.

(d) The applicant may appeal a decision of the Director to deny a permit application by submitting a written request to the Commission for consideration. If an applicant fails to request an appeal within thirty (30) consecutive days from the date they received the Director's denial letter, the applicant shall waive their ability to make any future appeal request regarding the denied permit application.

(i) The Commission shall hold a contested case hearing under Commission Regulation Chapter 27, Rules of Practice Governing Contested Cases Before the Wyoming Game and Fish Commission to review the Director's decision specific to the permit application and appeals.

(ii) The Commission shall either uphold the earlier denials of the permit or approve the permit application. The Commission shall provide its final decision on the matter to the applicant at their next regularly scheduled Commission meeting.

(e) An applicant may appeal a decision of the Commission to deny a permit application by filing with the appropriate Wyoming District Court.

Section 65. Controlling Regulation. In the event that Chapter 33 might conflict with ~~Wyoming Game and Fish Commission Regulation, Chapter 10,~~ Regulation for Importation, Possession, Confinement, Transportation, Sale and Disposition of Live Wildlife. Chapter 10 will control the importation and possession of wildlife.

Section 6. Revocation of Scientific Research, Educational or Special Purpose Permits. Conviction for violation of this regulation or failure on the part of the permittee or any other person authorized to conduct activities under the permit to comply fully with this regulation, may result in immediate revocation of said permit and refusal to issue any future permits.

~~**Section 7. Violation of Regulation.** Failure to abide by the provisions of this regulation shall be punishable as provided by Wyoming statutes for violations of Commission regulations. Conviction for violation of this regulation or failure on the part of the permittee or any other person authorized to conduct activities under the permit to comply fully with this regulation, may result in immediate revocation of said permit and refusal to issue any future permits.~~

~~**Section 8. Savings Clause.** If any provision of this regulation shall be held to be illegal or unconstitutional, such a ruling shall not affect other provisions of this regulation which can be given effect without the illegal or unconstitutional provision; and, to this end, the provisions of this regulation shall be severable.~~

WYOMING GAME AND FISH COMMISSION

By: _____
~~Ed Mignery~~ Mike Healy, President

Dated: ~~November 17, 2010~~ January 22, 2014